

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed December 12, 2008. At the time of the Final Office Action, Claims 9-15 and 20-25 were pending in the Application and stand rejected. Applicant amends several claims without prejudice or disclaimer. The amendments to these claims are not the result of any Prior Art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 9-15 and 20-25 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,537,592 issued to King et al. (hereinafter "King"). This rejection is respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that a claim is anticipated only if each element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."² In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

Independent Claim 1, as amended, recites:

A method comprising:

scanning a nonvolatile memory medium to find a first memory block containing a header indicating that the first memory block is the first memory block of an existing file stored on the nonvolatile memory medium and

finding a next memory block using a next block pointer stored in the header of the first memory block, if the existing file comprises more memory blocks than the first memory block, the existing file being opened upon completion of the finding, the header including a flag that comprises a first bit that is set if the first memory block is a first block of a file, a second bit that is set if the first memory block is a last block of the file, and a third bit that is set if the first memory block is part of a secure file.

No reference of record, including King, offers an architecture in which "...the header including a flag that comprises a first bit that is set if the first memory block is a first block of a file, a second bit that is set if the first memory block is a last block of the file, and a third bit that is set if the first memory block is part of a secure file..." as is recited in Independent Claim 1. Taking these elements in order, no reference of record includes any bit identifying the block as either the first or the last in the file. There is simply no disclosure relating to a these elements at the passages cited by the Examiner for this limitation.

In addition, there is nothing in King for a bit or flag configuration in which a memory block is identified as being part of a secure file. This is because King is a simple disk-formatting configuration that is incapable of offering such a flag and bit arrangement. These limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed King in its entirety and finds nothing that would be relevant to such operations. For at least these reasons, Independent Claim 1 is patentable over the cited reference.

The other Independent Claims recite similar, but not identical, limitations and, therefore, are allowable over the cited reference using a similar rationale. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons. Thus, all of the pending claims have been shown to be allowable, as they are patentable over the cited reference. Notice to this effect is respectfully requested.

ATTORNEY DOCKET NO.
CISCO-7984 (032590.0213)
Confirmation No. 6556

PATENT APPLICATION
10/614,070

13

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

The large entity fee of \$810 for filing this Request for Continued Examination is being paid concurrently herewith via the attached Credit Card Payment Form (PTO-2038).

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

Patent Capital Group
Attorneys for Applicant

/s/ Thomas J. Frame

Thomas J. Frame
Reg. No. 47,232

Date: March 12, 2009

Customer No. **86421**